The Nova Scotia Legislature

An Overview of its Procedures and Practices

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Introduction

This overview of the practices and procedures of the Nova Scotia Legislature is designed primarily to give new members of the House, its staff, and interested members of the public a general idea of how the Legislature works procedurally. It is not an authoritative work on parliamentary procedure. To research a point on parliamentary procedure or to prepare an argument for presentation on the floor of the House respecting a point of parliamentary procedure, consult the standard textbooks, speakers' rulings, and usages of the House.

The Legislature and the House of Assembly

The Legislature has four functions: law maker, controller of the purse strings of the province, watchdog of the government, and public forum. Under the Canadian Constitution, the Legislature consists of both the elected members in the legislative chamber and the Lieutenant Governor. The Lieutenant Governor is appointed by the federal government.

The proper way to refer only to the people who sit as elected members in the legislative chamber in Province House is "House of Assembly." The members of the House of Assembly are elected at a provincial general election and the body that is so elected is called a General Assembly of the House of Assembly. Before taking a seat in the House, each member must swear an oath of allegiance to the sovereign (see the *Constitution Act, 1867*).

General Assembly

A general assembly comes into existence two weeks after a general election, when the returning officers return the writs of election declaring which persons are elected. It first meets at a time specified in the proclamation issued by the Lieutenant Governor that summons the members to meet. It lasts until it is dissolved by the Lieutenant Governor when the next general election is called or until it automatically dissolves under the House of Assembly Act or the federal Constitution Act, 1982.

> The House of Assembly Act provides that a general assembly automatically dissolves five years after "the expiration of forty days next after the issuing of writs for any general election." The *Constitution Act*, 1982, provides that no legislative assembly shall continue for longer than "five years from the date fixed for the return of writs of a general election of its members."

Sessions of the General Assembly

Each general assembly is normally divided into two or more sessions. A new session starts with a Speech from the Throne when it first sits after being summoned by the Lieutenant Governor. A session of the general assembly ends when the Lieutenant Governor prorogues it. To prorogue means to discontinue without dissolving.

When a session is prorogued, any unfinished business before the House is dropped. If it is to be pursued further during the new session, it must be reintroduced. Thus, if a bill is introduced, but has not been enacted into law before prorogation, then it must be introduced all over again during the new session. The same is true for any business that is unfinished when a general assembly of the House is dissolved.

Sittings of the House

An adjournment divides a session into sittings. Thus the period from one throne speech to another is called a session of a general assembly, while a period during which the House meets between adjournments is a sitting. Unlike a prorogation, an adjournment does not erase any proceeding that has taken place. When the House reconvenes after an adjournment, it merely picks up where it left off. The House is prorogued by the Crown, but is adjourned by a resolution passed by a majority of the House.

Accordingly, one session of a general assembly could be divided into two or more sittings. In 1993, the *House of Assembly Act* was amended to provide that the House must sit once during the spring (the six-month period that begins on January 1) and once during the fall (the four-month period ending on December 31). This provision does not apply during the six months immediately following a general election.

It is now the practice when the House rises in the spring, not to prorogue the House, but rather to adjourn it and then to reconvene it in the fall and again adjourn it after the fall sitting and then to prorogue it just before it sits the following spring.

What is a sitting?

A reference to a "sitting" may be to the period of time between the House commencing its business on a particular day and its adjournment, which is moved at the end of that day by the Government House Leader or someone on his or her behalf. This motion is for the House to adjourn and to meet again at a certain hour on its next sitting day. Accordingly, a reference to that period of time on any particular day would be to "Monday's sitting," "Tuesday's sitting" and so on. However, a reference to a "sitting" may also be to a much longer period, because the House also adjourns for much longer periods. For example,the House is usually adjourned late in

the spring, revonvened sometime in the fall, and then sits for a period of several weeks during the fall. These periods during which the House sits are also called "sittings." The period in the fall is called the "fall sitting" and the corresponding period during the spring is called the "spring sitting." These sittings are adjourned on motion of the Premier or the Deputy Premier or some other minister on behalf of the Premier and the motion is for the adjournment of the House to meet again "at the call of the Speaker."

The House Rules provide that when the House stands adjourned for more than 30 days, it can be reconvened by the Speaker giving 30 days' notice to the members. Shorter notice may be given if the Speaker is satisfied, after consultation with the government, that the public interest requires that the House meet at an earlier time. Unless the House is prorogued, it can only be recalled by the Speaker under such circumstances, and not by the Lieutenant Governor.

How Business Is Conducted in the House of Assembly

The House Rules

The House Rules set out how business is to be conducted within the House of Assembly. They are the primary source for solving procedural problems. A complete statement of these rules can be found in the *Rules and Forms of Procedure of the House of Assembly.*

Despite these rules, the House has complete control over its own proceedings. It can change any rule contained in the House Rules if all the members agree. It can also dispense with any precedent or usage that was followed in the past if it has the unanimous consent of its members.

For example, if the House Rules were amended to expressly prohibit debate on the general principle of a bill in Committee of the Whole House, then no such debate would be permitted, despite previous practice.

Procedures not dealt with in House Rules

If there is no express provision in the House Rules dealing with a point of procedure, then one must use other sources in the following order:

- usages and precedents of the House of Assembly
- standing and sessional orders of the House of Commons of Canada
- usages of the House of Commons of Canada
- usages and customs of the British House of Commons

A usage is a long-standing practice that has been followed by the House, but is not set out anywhere in the House Rules. An example of a usage is the practice that has arisen in the Committee of the Whole House that permits a repeat of the discussion on the general principle of a bill that has already taken place during second reading. This discussion may take place despite the fact that the logical extension of the basic principles of Parliamentary procedure would be that the Committee can only deliberate on the details of a bill, since the House, by passing a motion for second reading, has already approved the general principle of the bill.

An example of a precedent is a Speaker's Ruling, such as the ruling by Mr. Speaker MacEwan, discussed later in this paper, which says that only one of each type of second reading amendment may be moved during second reading debate.

The best known standard textbooks for the standing and sessional orders and usages of the federal House are the latest edition of *Beauchesne's Parliamentary Rules and Forms, Parliamentary Procedure and Practice in the Dominion of Canada* by Sir John Bourinot and, more recently, *House of Commons Procedure and Practice* by Marleau and Montpetit.

The source book that is almost always used in determining the usages and customs of the British House is the latest edition of *Erskine May's – Parliamentary Practice.*

Speech from the Throne

At the beginning of each new general assembly after a general election and each new session after a prorogation, there is a ceremonial opening of the House, with the Lieutenant Governor delivering the Speech from the Throne. The Speech from the Throne is written by the government and states the government's program in very general terms.

Throne Speech Debate

After the throne speech has been delivered, the throne speech debate follows. The throne speech debate opens with a speech from a government backbencher that ends with a motion that the House reply to the Lieutenant Governor by thanking him or her for the Speech from the Throne. Another government backbencher then speaks and seconds the motion, and the throne speech debate continues, technically, as a debate on the motion.

Indeed, although the debate is commonly referred to as the throne speech debate, its correct name is the Debate on the Address in Reply to the Speech from the Throne. Each member may speak for up to one hour during this debate and, despite the name of the debate, a member may, when speaking in this debate, discuss any topic that may be of interest in the province or any part thereof, particularly in that member's constituency. Any member may move an amendment to the motion, but amendments are almost always moved by an opposition party and are framed in

terms that are usually uncomplimentary to the government. However, the amendment is, unlike other amendments, not voted on until the end of the debate, just before the main motion is voted on. The debate is usually wound up by a minister on behalf of the government. A vote is then taken on any amendment to the motion and then on the main motion.

Role of the Speaker and Deputy Speakers

The House is presided over by the Speaker or, in the absence of the Speaker, by the Deputy Speaker, both of whom must be members of the House. It is the duty of the Speaker or the Deputy Speaker to maintain order and make rulings on any points of procedure that may be raised.

Electing a Speaker

In the past, the Speaker and the Deputy Speaker were elected by the House by a voice vote on the motion of the Premier, seconded by the Leader of the Official Opposition. However, on May 21, 1998, the House passed an amendment to the House Rules that entitles any member to nominate any other member, other than a member of the Executive Council, the Leader of the Opposition, or the leader of a recognized party, for election as Speaker or Deputy Speaker. The rule change provides for an election by secret ballot if there is more than one nominee for each of these offices. The first members to be elected under this rule change were Mr. Speaker Ronald Russell and Mr. Deputy Speaker Donald Chard. There can be more than one Deputy Speaker.

Challenging a Ruling by the Speaker

The only way to challenge a ruling by the Speaker or the Deputy Speaker in the House is by an appeal to the House that must be made by way of a Notice of Motion. The procedure for Notices of Motion is considered later in this paper. Briefly, the motion cannot be considered by the House until two days after it is tabled, and then may only be debated if called by the Government House Leader on a Monday, Tuesday, Thursday, or Friday, or by an opposition house leader on a Wednesday.

Conduct of Members

Rule 13 of the House Rules sets out how members are to conduct themselves in the House. For example, it provides that a member may only address the House standing in his or her place, and may not pass between the Chair and the Mace. Also, a member, when speaking in the House, may not refer to another member by name, but rather as "the Honourable Member for ..." or "the Honourable Minister of ..." and may not address another member directly, but rather through the chair.

When a member is speaking, another member may rise and ask whether the member who is speaking will entertain a question. The member who is speaking may either refuse to do so or may yield the floor in order that the other member may ask the question or, when a member is speaking, another member may rise on a point of order. Otherwise, when a member is speaking, another member cannot interrupt.

Hours of Sitting

The House Rules provide that the normal sitting hours are as follows:

Monday	7 pm to 10 pm
Tuesday	2 pm to 6 pm
Wednesday	2 pm to 6 pm
Thursday	2 pm to 6 pm
Friday	11 am to 2 pm

The House Rules provide that the House may not meet on a Saturday, a Sunday, New Year's Day, Good Friday, Easter Sunday, Easter Monday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day, or during the March Break.

Extended Hours

However, during the first five sitting days after the budget is presented and the government's estimates are referred to the Committee of the Whole House (a procedure that will be discussed in more detail later), the maximum number of sitting hours is expanded to six hours, and thereafter to eight hours. The government, through its House Leader, determines how long each sitting day will be and, at the end of each sitting day, announces the time and length of the following sitting day. The House Rule that provides for these extended hours limits the length of each such sitting day to six or eight hours as described above, and provides that when this Rule applies, the House needs unanimous consent if it wishes to sit before of after the hours noted below.

Monday	12 noon to 10 pm
Tuesday	12 noon to 8 pm
Wednesday	12 noon to 8 pm
Thursday	12 noon to 8 pm
Friday	10 am to 6 pm

If the House has stood adjourned for one month or more after the Committee of the Whole House on Supply has completed consideration of the Estimates, then the House sits during normal hours for the first five sitting days after the adjournment ends, but may sit for six hours for the next five sitting days and for eight hours thereafter, if the Government House Leader so determines.

The House Rules also permit the Government House Leader to make, without notice, a motion setting the hours during which the government wishes the House to sit during the next sitting day. Until the June 26, 2001, sitting of the House, this Rule had not been used with respect to Opposition Day, but during that sitting the Government House Leader moved a motion, which was ruled in order, that the House sit on a Wednesday from 12:01 am until 11:59 pm, with the first four hours being devoted to Opposition business (*Hansard*, June 26, 2001, p. 6085). There is no debate on the motion and, if the motion is carried by a majority, the sitting hours for the next day are as provided in the motion. The result of this amendment is to permit the government to set whatever sitting hours it wishes if it has a majority.

The Order Paper

The business that is before the House each day is set out on an agenda called the Order Paper. The clerk prepares the Order Paper and circulates it to all members on each sitting day. The Order Paper consists of two classes of business, namely, those items that constitute the Daily Routine and the remaining items of business.

The Daily Routine

The House Rules require that those items of business that make up the Daily Routine must be called every day before any other item of business. The Daily Routine consists of the following items of business:

- presenting and reading petitions
- presenting reports of committees
- tabling reports, regulations, and other papers
- statements by Ministers
- government notices of motion
- introduction of bills
- notices of motion

Question Period

Question Period, the item called Oral Questions Put by Members, immediately follows the Daily Routine on Tuesdays, Wednesdays, and Thursdays. It must be called on those days immediately after the Daily Routine.

Other Items of Business

On every day except Wednesday, after the Daily Routine and Question Period have been completed, the remainder of the business to be called is totally at the discretion of the Government House Leader. The Government House Leader is a minister of the Crown who is chosen by the Premier to plan and manage the conduct of government business in the House.

Opposition Days

Wednesdays are opposition days. On opposition days, the first four hours of business to be considered by the House after the Daily Routine and Question Period, is determined by the official opposition or a recognized opposition party. In order for an opposition party to be a recognized party it must be a recognized party under the *Elections Act*, that in the latest general election had candidates run in at least three-quarters of the electoral districts, received at least 10 per cent of the popular vote, and is represented in the House by at least two members. If there is more than one recognized opposition party, the number of opposition days allocated to each of them is determined by the Speaker, based on the proportion the number of members of each opposition party bear to one another.

Quorum

A quorum is the minimum number of members that must be present before a body can exercise its powers. The House Rules provide that at least 15 members, including the Speaker, constitute a meeting of the House for the exercise of its powers. If the House is in Committee, there must be at least 15 members, including the Chair, to constitute a quorum. The House Rules further provide that a majority of the members of a Select or Standing Committee constitutes a quorum of the Committee, nine members constitute a quorum of the Committee of the Whole House on Supply, and six members constitute a quorum of the Subcommittee on Supply.

House of Assembly—at least 15 members, including the Speaker, constitute a quorum

Committee of the Whole House on Bills—at least 15 members, including the Chair, constitute a quorum

Select or Standing Committee—a majority of its members constitute a quorum

Committee of the Whole House on Supply—nine members constitute a quorum

Subcommittee on Supply—six members constitute a quorum

Debate in Committee

In the Law Amendments Committee, the Private and Local Bills Committee, and the Committee of the Whole House on Bills, a member may speak for one hour as many times as he or she wishes. And, when the House is in Committee, a member need not speak from his or her place, as he or she must do when speaking in the House. The main focus of the discussion in committee is with respect to details, and, therefore must be more conversational and less formal than debates that deal with general principles. The danger of debate in Committee of the Whole House on bills going on forever as a result of this latitude is offset by a House Rule that limits the time during which the Committee of the Whole House on Bills may deliberate on a bill to 20 hours.

Voting in Committee

Questions before the Committee of the Whole House and the various committees of the House are decided by a majority vote in all cases except on a motion for a change in the House Rules, which must be carried by a two-thirds majority. Most questions are decided on a voice vote, but where two members so request, a roll-call vote must beheld. When this happens in Committee of the Whole House, the bells are rung for up to one hour (or such shorter time as the parties may agree) before the vote is held.

Restrictions on Participation by Speaker

The Speaker is not permitted to participate in debates in the House and may not vote on any question before the House except to break a tie. However, when the House is in Committee, the Speaker may participate in a debate and vote on any question. The Chair of the House when sitting in Committee, and the Chair of a Select or Standing Committee, may vote on any question before the Committee and may vote again in order to break a tie.

Procedure in Committee

The Committee of the Whole House is chaired by a deputy speaker or, in the absence of a deputy speaker, another member. The Speaker cannot preside over the Committee of the Whole House. In Committee of the Whole House or in any other House Committee, the Chair of the Committee performs the same functions as the Speaker in the House, but a ruling by the Chair of the Committee of the Whole House may be appealed to the Speaker.

The Chair of any other committee of the House may make procedural rulings, but, unlike a procedural ruling from the chair of the Committee of the Whole House, there is no direct appeal to the Speaker from such a ruling. If a member of the committee is dissatisfied with the ruling, the member may appeal it to the committee. If the committee sustains the ruling, then the dissatisfied member may appeal the decision of the committee to sustain the ruling to the House, since Rule 61(2) provides that a decision of the committee may be appealed to the House and shall be dealt by the House without debate.

Point of Order

A member who believes that the rules of procedure are being violated may draw the matter to the attention of the Speaker or the Chair of a Committee. The member rises and, when recognized, states that he or she wishes to raise a point of order and then states what the point of order is. Except during Question Period, a member may rise on a point of order at any time. If another member is speaking, the other member must yield the floor until after the point of order is raised, and, if the Speaker wishes to rule on the point immediately, until after the Speaker rules on the point. It is the duty of the Speaker, a deputy speaker, or Chair to rule on the point, either immediately or at a later time. It has been the practice to allow a member of each recognized party to make representations on a point of order before it is ruled upon.

A point of order may not, however, be raised during Question Period, but may be raised immediately after Question Period.

On many occasions, members rise on a point of order where, in fact, there is no real point of order. They do this to get the floor to immediately make a point. When this happens, the Speaker rules that no point of order has been made out.

Point of Privilege

A point of privilege may be raised when a member feels that he or she is being interfered with in carrying out his or her duties as a member. A true point of privilege is rare and very serious. For example, a member could raise a point of privilege if he or she were being threatened with death or violence if he or she votes a particular way on a matter before the House or a committee of the House. A point of privilege must be raised at the earliest possible moment.

If a point of privilege is raised, the Speaker determines whether there is a *prima facie* case, which means whether on their face, the facts presented to the House by the member show that there was a breach of the member's privileges. If the Speaker decides that there is a prima facie case, the speaker will usually send the matter to the Internal Affairs Committee of the House to investigate. That Committee will report to the House and make recommendations to the House as to what, if anything, ought to be done about the matter.

Functions of the Legislature

As mentioned earlier, the Legislature has four functions: law maker, controller of the purse strings of the province, watchdog of the government, and public forum.

The Legislature as Law Maker

The first step that is taken in the law-making process is the introduction of a bill in the House of Assembly by one of its members, either as a minister of the Crown introducing a bill that is proposed by the government or as a private member.

There are several types of bills:

- *Government bills*—bills introduced by ministers of the Crown as government measures.
- *Private members public bills*—bills that enact or amend laws of general application throughout the province but are introduced by members other than ministers of the Crown, or by ministers of the Crown in their capacity as private members.
- *Private and local bills*— Like private members public bills, these are introduced by members who are not ministers of the Crown, or by ministers of the Crown in their capacity as private members. Unlike private members public bills, private and local bills do not enact or amend laws of general application throughout the province. Private bills apply only to an individual or a special group of individuals, such as bills that exempt a person from the application of a particular law or that make a group of individuals a corporation. Local bills apply within a particular geographical area or to a particular municipality. Usually, a private or local bill is introduced by a member at the request of the person or group or municipality in the member's electoral district to which the bill applies. Usually a member for another electoral district would introduce such a bill only with the agreement of the member for the electoral district in which the individual, group, or municipality to which the bill applies is located.

Every member has a right to introduce a bill as long as it is not a money bill. According to a ruling made by Mr. Speaker Russell, a money bill is a bill that appropriates part of the public revenue and thus infringes upon the financial initiative of the Crown (*Hansard*, June 2, 1998, p. 608). Only ministers of the Crown may introduce a money bill, and a money bill can only be introduced as a government bill.

Before a bill is introduced, it must be approved as to form by Legislative Counsel. If Legislative Counsel believes that a bill to be introduced by a private member is a money bill, Legislative Counsel must advise the Speaker. If the Speaker concludes that the bill is a money bill, then the Speaker must rule it out of order when the member rises to introduce it.

The Stages of a Bill: From Introduction to Becoming Law

Before becoming law, a bill goes through the following stages: first reading (introduction), second reading, detailed study by a standing committee, detailed study by the Committee of the Whole House on Bills, third reading, and Royal Assent.

First Reading

First reading is a brief procedure. It takes place when the Speaker calls the order of business called Introduction of Bills, which must be called daily as part of the Daily Routine. When this item of business is called

1. Any member who wishes to introduce a bill stands in his or her place and, after being recognized by the Speaker, addresses the Speaker and begs leave to introduce the bill. The member says: "Mr. Speaker, I beg leave to introduce a bill entitled ..." and then reads the long title on the backer of the bill.
2. The member hands the bill to a page who, in turn, hands the bill to the Speaker. The Speaker ensures that the bill has been approved as to form by the Legislative Counsel by checking that the stamp that reads "approved as to form," bearing the signature of one of the Legislative Counsel, is on the backer of the bill.
3. The Speaker states that the member begs leave to introduce a bill entitled ... and then reads the long title on the backer of the bill.
4. The Speaker hands the bill to a page who, in turn, hands it to one of the clerks, who assigns a number to the bill.
5. The Clerk reads out the bill number and the long title.
6. The Speaker then orders that the bill be read a second time on a future day.

Second Reading

The next stage a bill goes through in becoming a law is second reading. Second reading debate on a bill occurs when the bill is called for second reading. The Government House Leader determines when a bill is called for second reading debate. On days when an opposition party calls the order of business, the member of an opposition party who is leading the House on that day calls the bills. However, the opposition may not call public bills for second reading debate, and, although the opposition may call a private member's public bill for debate, the House Rules provide that the debate shall be for one hour only, and the question may not be put. This means that a vote may not be held on the motion for second reading at the end of that hour.

When a bill is called for second reading the member who introduced the bill moves that the bill be read for a second time and usually explains the general principle or principles underlying

the bill. Any member may speak for up to one hour in the debate on the motion for second reading, but may only speak on the general principle or principles underlying the bill and not on its details. A member may only speak once on the motion for second reading, except for the member who has moved second reading, who has a right of reply.

Delaying Tactics

During debate on the motion for second reading, any member may move one of the following motions while participating in the debate, which are known as dilatory motions because they cause delays:

- that the bill not be read now, but six months hence, or any number of months hence (a hoist motion)
- that the subject matter of the bill be referred to a committee of the House
- that the bill be amended in a way that is totally contrary to the principle of the bill (a reasoned amendment)

Once one of these dilatory motions is moved, any member, except the member who moved it, may speak for up to one hour on the motion. The member may speak even if that member has already spoken on the main motion for second reading or on another dilatory motion. When speaking on a dilatory motion, a member must confine his or her remarks to the motion itself. For example, when speaking on a hoist motion, a member must confine his or her remarks to the advantages or disadvantages of delaying the bill for six months, depending on what position the member takes on the motion.

There is now a Speaker's ruling to the effect that only one of each of these three types of dilatory motions or amendments may be moved during a debate on second reading of a Bill. There can be only one hoist motion and not several hoist motions for different lengths of time. For example, there cannot be a three-month hoist motion and a six-month hoist motion (See *Journals and Proceedings of the House of Assembly of the Province of Nova Scotia - 1994-95*, p. 378).

When debate on a dilatory motion moved during second reading has ended, the motion is put and voted on. If the motion is carried, the bill cannot be proceeded with, at least not on that day. But if the motion is defeated, then debate on the motion for second reading continues. When it ends, usually with the member who moved second reading replying, the motion is put and voted on. If it is defeated, the bill dies. If it is carried, the Speaker then orders that the bill be referred to an all-party standing committee of the House. If the bill is a public bill, the Speaker refers it to the Law Amendments Committee. If it is a private bill or a local bill, the Speaker refers it to the Private and Local Bills Committee. The House Rules provide that the Minister of Justice and Attorney General chairs the Law Amendments Committee. The House Rules do not, however,

specify who is to chair the Private and Local Bills Committee. It is usually chaired by a backbencher, but, during one Session, was chaired by a Minister of the Crown.

Public Input

Because no member of the general public may take part in a debate in the House, the practice has arisen whereby committees deliberating on bills will hear representations from the general public before they give detailed clause by clause consideration to a bill. Most public input concerns the general principles of a bill.

Detailed Study by a Standing Committee

Since the House has already approved a bill in principle by giving it second reading, the Law Amendments Committee or the Private and Local Bills Committee can, when deliberating on a Bill, after hearing any representations from the general public, only give detailed clause by clause study to the bill. Although the committee cannot amend a bill, it can make any of the following recommendations:

- that a bill be reported back to the House for its favourable consideration, with any amendments the Committee may decide to recommend
- that a bill be reported back to the House for its favourable consideration, without amendment
- that the House not give favourable consideration to a bill

And, on one occasion, the Private and Local Bills Committee reported a bill back to the House without recommendation (*Hansard*, November 17, 1998, p. 3841).

It is open to any member of either of these committees to make a motion that the committee make any of these recommendations or that a bill not be recommended to the House or be reported back without recommendation. If the motion is carried, the Chair of the committee reports back accordingly, unless the committee determines that the bill not be reported back.

In practice, a bill is usually only reported back with a recommendation that it be given favourable consideration by the House. If a committee does not recommend a bill for favourable consideration of the House, it simply does not report the bill back. On one occasion in 1981, a bill was reported back with the recommendation that it be given a six-month hoist. (See *Journals and Proceedings of the House of Assembly of the Province of Nova Scotia – 1981*, page 255.)

Reporting Back to the House

After the Law Amendments Committee or the Private and Local Bills Committee decides on what recommendation it will make to the House on a bill, the committee instructs its Chair to report the bill back to the House with the recommendations it has decided to make.

When the item of business "Presenting Reports of Committees" is called during the Daily Routine, the Chair of the committee that considered the bill rises in his or her place in the House and tells the House that the committee has considered the bill and that it recommends the bill to the favourable consideration of the House either with or without amendments, or reports any other recommendation the committee may make, or, if the committee has so determined, reports the bill back without recommendation. The bill is attached to the report, with any recommended amendments marked on it, and the report is then tabled. A report can cover one or more bills. When the report is tabled, the Speaker orders that the bill be referred to the Committee of the Whole House on Bills.

Committee of the Whole House on Bills

Like second reading, the Committee of the Whole House on Bills considers bills at the discretion of the Government House Leader. When the Government House Leader wishes the Committee of the Whole House to meet and consider bills referred to it, he or she moves that the Speaker leave the Chair and that the House resolve itself into a Committee of the Whole House on Bills. When this motion is made,

- the Speaker leaves the chair
- the Mace is taken from the top of the clerk's table and placed on the rung below the top of the table
- a deputy speaker or another member takes the chair by sitting at the head of the clerk's table
- the chair recognizes the Government House Leader
- the bills that have been referred to the Committee of the Whole House on Bills are then considered in the order they are called by the Government House Leader

Like the Law Amendments Committee and the Private and Local Bills Committee, the Committee of the Whole House on Bills studies a bill in detail, clause by clause. It considers any detailed amendments to the bill that a member may propose and makes the same type of recommendations to the House respecting a bill that the Law Amendments Committee or the Private and Local Bills Committee makes.

The Committee of the Whole House on Bills is a committee of all the members of the House. Unlike the Law Amendments Committee and the Private and Local Bills Committee, a member of the general public cannot appear and make representations to it, except with the unanimous consent of the House.

Another difference is with respect to the way in which a bill is discussed. In the Law Amendments Committee and the Private and Local Bills Committee, representations from the general public are heard and then a bill is discussed in detail. In the Committee of the Whole House on Bills, a practice has grown up that permits a debate on the general principle or principles of a bill when the first clause of the bill is called for discussion. However, once the first clause is carried by the Committee, the balance of the debate in the Committee of the Whole House is restricted to details only.

After calling the Committee to order, the Chair calls upon the Government House Leader who then calls each bill by number. When a bill is called, the discussion takes place in the following order: first, the clauses, then, the schedule to the bill, if any, then, the preamble to the bill, if any, then the long title of the bill. (There has been some confusion on procedure on consideration of the title; this is based on the mistaken assumption that the short title is the last item to be considered. This is not the case. If there is a short title, it is contained in the first clause of the bill; therefore, the short title is considered first; only the long title is considered last.)

In dealing with clause by clause consideration, the Chair calls each clause by number. For example, in calling the first clause, the Chair says, "shall clause 1 carry?" After this question is asked, any member may rise and speak on each clause when that clause is called and may also propose one or more amendments to it. If a member wishes to move an amendment, the amendment must be in writing, and copies of it must be circulated to the Chair, the Clerks and all the members. Certain amendments may not be moved; for example, an amendment that goes beyond the scope of the bill under consideration is out of order. A list of grounds on which an amendment may be ruled out of order in Committee appears in *Beauchesne's Parliamentary Rules and Forms (6th edition)* at pages 207–08. If the Chair rules the amendment in order, then debate may take place on the amendment. After debate, the amendment is voted on and, if carried, is recommended to the favourable consideration of the House when the Committee rises and reports. This reporting procedure is discussed in detail later in this paper. Once an amendment is voted on, or ruled out of order, the debate goes back to the clause under consideration. If a member wishes to intervene and comment on a clause or move an amendment to it, he or she must do so before it is voted on. If he or she does not do so and the clause is voted on, it cannot be called again without unanimous consent.

Once discussion on a clause ends, the Chair says, "shall clause ... carry?" A vote is taken and, if passed, the clause carries and the Chair then goes on and calls the next clause. For example, after

clause 1 carries, the Chair says, "shall clause 2 carry?," and so on. When all clauses are carried and there is a schedule, the Chair then says, "shall the Schedule carry?" and, if the Schedule carries and there is a preamble, the Chair then says "shall the preamble carry?" If the preamble carries, the Chair then says "shall the title carry?" and, if the title carries, the Chair then says "shall the Bill carry?" and if this carries, then the Committee has completed its consideration of the Bill. With unanimous consent, non-controversial bills are often carried by carrying all the clauses in one motion; in these cases the Chair says, "shall the clauses carry?"

How are amendments recommended by the Law Amendments Committee and the Private and Local Bill Committee dealt with in Committee of the Whole House on Bills? It is the duty of the Clerk to draw the attention of members to any amendment that is recommended by the Law Amendments Committee or the Private and Local Bills Committee by reading the amendment out or circulating to the members a copy of the Bill with the recommended amendments highlighted. Once the attention of the members is drawn to an amendment to a clause and the clause carries, then under the House Rules, the clause is deemed to have been carried with the amendment; in other words, it is reported back for the favourable consideration of the House as amended. In effect, the Committee recommends that the House pass the Bill with the amendment or amendments recommended by the Law Amendments Committee or the Private and Local Bills Committee. Therefore, if the Committee of the Whole House disagrees with an amendment recommended by the Law Amendments Committee or the Private and Local Bills Committee, it must specifically deal with it.

Twenty-hour Limit

A House Rule limits the time during which the Committee of the Whole House may deliberate on a bill to 20 hours. If the Committee has not completed its deliberations on a Bill after 20 hours, then the Chair says, "shall the remaining clauses carry?" No debate is allowed. The matter is put to a vote immediately. If it carries, then the bill is carried.

The deliberations of the Committee of the Whole House on Bills end when the House Leader moves that the Committee rise and report back to the House. When this happens, one of the deputy speakers or another member chairing the Committee of the Whole House leaves the Chair at the head of the Table, the Speaker returns to the Speaker's chair and the Mace is placed back on the top of the Table. The Speaker then says "the Chair of the Committee of the Whole House on bills reports" and the Clerk, not the Chair, then reports the bills back. The report is worded exactly the same as a report from the Chair of the Law Amendments Committee or the Private and Local Bills Committee. If an amendment is recommended by the Committee of the Whole House on Bills, the amendment is marked on the bill by the Clerk, and the Clerk reports the bill back "with certain amendments." However, if the Bill is reported back without amendment or

with one or more amendments that are recommended by either the Law Amendments or the Private and Local Bills Committee, then the Clerk reports the bill back "without amendment." The Speaker then orders that the bills be read a third time on a future day.

Third Reading

Under the House Rules, bills cannot be read a third time until the following sitting day at the earliest. On some occasions, when all parties want a bill to pass quickly, such as when a sitting is winding down, the members unanimously agree that the bill be read a third time immediately. Thus, if the Speaker gets the sense that the members wish to proceed to third reading immediately, he or she will ask, "when shall this bill (or these bills) be read a third time?" If one or more members say "now" and no one objects, then the bill or bills proceed to third reading immediately. When this happens, the Government House Leader then calls the order of business Public Bills for Third Reading, or Private and Local Bills for Third Reading (depending on what class of bills the report covers).

Like second reading, third reading of a bill takes place when the bill is called for third reading by the Government House Leader. Third reading debate, like second reading debate, is a debate on the motion of the member who introduced the bill, or another member on his or her behalf, that the bill be read a third time.

Also, third reading debate, like second reading debate, is on general principle, although it tends to be less broad than on the motion for second reading. It really amounts to a "last look" at the bill. However, like second reading debate, a member can speak only once, up to one hour, except that the member who moved third reading has the right of reply.

Third Reading Delaying Tactics

Rule 51 permits any member to move that a bill be recommitted when the order for third reading of a bill is read. If such a motion is moved, any member may speak on it for one hour, even if he or she has already spoken on the main motion for third reading. However, the member must confine his or her remarks to the advantages or disadvantages of sending the bill back to a committee.

> On June 26, 2001, the Speaker ruled a motion to recommit out of order, pointing out that the motion was made too late; that it should have been moved when the Government House Leader called, under the Orders of the Day, for third reading of bills. The Speaker based this ruling on the opening words of Rule 51 which say that the motion be made when "the Order of the Day for the third reading of any bill is read "(*Hansard*, June 26, 2001, p. 5801).

Beauchesne's Parliamentary Rules and Forms (6th edition) states in paragraph 731 at page 214 that on third reading, "the same type of amendments which are permissible at the second reading stage are permissible at the third reading stage with the restriction that they cannot deal with any matter which is not contained in the bill." However, the same authority states, in paragraph 558(1) at page 172 that it is an old rule of Parliament that " a question being once made and carried in the affirmative or negative, cannot be questioned again but must stand as the judgment of the House."

On June 26, 2001, the Speaker ruled out of order a motion for a three-month hoist, because a sixth-month hoist motion had been made but had been defeated on second reading (*Hansard*, June 26, 2001, p. 5820). And in 1994 the Speaker ruled out of order a motion made on third reading to refer the subject matter of a bill to a committee of the House on the grounds that this amounted to providing for a review of the principle of the bill. By third reading stage, this is not permissible, since the principle of the bill had already been approved by the House when it gave second reading to the bill (*Hansard*, 1994, p.1894). It could be argued, based on this reasoning, that a reasoned amendment is not in order on third reading, since a reasoned amendment is a motion to adopt a principle that is contrary to the principle of the bill already approved on second reading.

Vote on Motion

When debate on motion for recommittal or any dilatory motion ends, a vote is taken on the motion. If it is defeated, then debate on the main motion for third reading is continued. When the Speaker feels that there are no other members to speak on the motion for third reading other than the mover, he or she will ask if there are any further speakers on the motion. If he or she hears none, normally the member of the House that is the mover is recognized and closes the debate. In the case of the government bill, the mover is the Minister who introduced the bill or another minister on his or her behalf. When recognizing the mover of the motion for second or third reading, it is customary for the Speaker to give any other members who wish to speak a final chance to do so by warning that if the mover is recognized, it will be to close the debate.

Passing and Engrossing the Bill

When the debate on the motion for third reading ends, usually with the member who moved the motion replying, the question is put. If the motion carries, the Speaker says, "ordered that the bill do pass, ordered that the title be as read by the Clerk, ordered that the bill be engrossed." A bill is engrossed when the Clerk puts it in a form that is suitable for the Lieutenant Governor or the Administrator to endorse.

Royal Assent

The last step is Royal Assent. This step is necessary because the *Constitution Act, 1867*, empowers the Legislature, not just the House of Assembly, to enact laws. Royal Assent is given by the Lieutenant Governor, or, in his or her absence, illness, or other inability, by the Administrator of the Province (who is usually the Chief Justice of Nova Scotia) endorsing the bill with the Royal Assent by signing it. The Lieutenant Governor or the Administrator then usually appears in the House, takes the Speaker's Chair, and assents to the bill. However, this is not always done; indeed, public assent is not necessary, as long as the Lieutenant Governor or the Administrator has signed the bill.

The Legislature as Controller of the Purse Strings of the Province

The Legislature is the controller of the purse strings of the province because, under the laws of the province, the government may not spend any public money without the authority of an Act of the Legislature. Section 20 of the *Provincial Finance Act* reads as follows:

> "No payment out of the Consolidated Fund shall be made except under the authority of an Act of the Legislature."

The government approaches the Legislature for annual funding through the budget process. This process is usually the most intense of the whole sitting.

Departments Prepare Estimates

The budget process starts with each department preparing its estimates, that is, an estimate of the amount of money it will require in order to function during the next fiscal year. The estimates of each department of government are then submitted to the proper authorities of government for approval for submission to the House.

Budget Speech: Tabling the Estimates and Resolutions

The House Rules deal specifically with the procedure to be followed to get the estimates before the House. The procedure may be briefly summarized in the following way. Each year the Minister of Finance makes a speech in the House, called the Budget Speech. In the Budget Speech, the Minister outlines, in general terms, the state of the province's finances and the economic policies that the government will pursue during the next fiscal year. For example, will there be increases or decreases in taxes or increases or decreases in government spending? Before beginning the speech, the Minister must do two things, namely, table the estimates of each department and then table a set of resolutions, to be passed by the House, authorizing the government to spend public money in the manner set out in the resolutions.

Opposition Comments

After the budget speech, one member of each recognized opposition party is entitled to comment on the budget speech. Once these comments are completed, the estimates are automatically referred to the Committee of the Whole House on Supply.

Motion to Go into Supply

When the Government House Leader wishes the House to go into the Committee of the House on Supply, he or she moves that the Speaker leave the Chair and that the House resolve itself into the Committee of the House on Supply. This motion may not be made, of course, until after the daily routine and Question Period, if any, is completed.

The House Rules permit a debate of up to forty-five minutes on the motion to go into Supply before the House actually goes into Supply. Any member may participate in this debate and, when doing so, may speak on any topic. This rule enshrines the long-standing principle of parliamentary procedure that the representatives of the people have the right to air their grievances before granting money to the Crown. A member may speak up to fifteen minutes during this debate, and once the time for the debate expires, or the debate ends, whichever is earlier, the Speaker says "the motion is carried" and then leaves the Chair.

Committee and Subcommittees

The procedures of the Committee of the Whole House on Supply are the same as in the Committee of the Whole House on Bills, including who acts as Chair of the Committee, where the Chair sits, the number of times a member may speak, the position of the Mace, and reporting back. The estimates are, however, considered not only by the Committee of the Whole House on Supply, but also a subcommittee of that Committee. The estimates of five of the departments of Government, picked by the House Leader of the Official Opposition in consultation with the Government House Leader, are assigned for consideration to the Committee of the Whole House on Supply, while the estimates of the remaining departments are assigned for consideration to the subcommittee.

Resolutions and Debate

When the House has gone into Supply, the House Leader calls the resolutions he decides are to be considered that day. The work of the Committee consists, in theory, of debate on each budget resolution that is before it and, when debate ends, a vote is taken on whether or not the resolution passes. However, in practice, there is much more latitude to the debate: members can question the Minister whose estimates are under consideration on all aspects of his or her department and its administration and policies.

Subcommittee on Supply

The subcommittee meets when the Government House Leader decides it shall meet. In the subcommittee, the Minister whose estimates are under consideration is questioned in the same way as in the Committee of the Whole. The Government House Leader determines the order in which the estimates are considered by the subcommittee.

However, the subcommittee does not vote on the resolutions. It simply considers the estimates assigned to it and, when it has completed its consideration of all the estimates assigned to it, or when it has met for a total of 40 hours, whichever is earlier, it makes a report to the Committee of the Whole House to the effect that it has considered all the estimates assigned to it.

Time Limits for Committees

Neither the Committee of the Whole House on Supply nor the subcommittee can deliberate for any longer than four hours during a sitting day.

Like the Committee of the Whole House on Bills, the danger of the Committee of the Whole House on Supply and its subcommittee going on forever is offset by a rule which says that neither committee can deliberate for longer than 40 hours.

Once the subcommittee has reported back to the Committee of the Whole House on Supply, and the Committee of the Whole House on Supply has deliberated for 40 hours, and there are still further estimates for it to vote on, the question is put on the remaining resolutions without debate. If passed, the committee then rises, the Speaker takes the Chair and the Clerk reports back to the effect that the resolutions have been passed by saying that the committe recommends them to the favourable consideration of the House. At this point, a motion that the House concur in the estimates is deemed to be before the House and is put without debate. The end result of all these proceedings, at this point, is a group of resolutions, passed by the House of Assembly, authorizing the Government to spend public money in the manner proposed in the estimates.

However, the *Provincial Finance Act* requires that expenditures of public money be approved by an act of the Legislature. At this point, there is no authorization in the form of an act of the Legislature, but only authorization in the form of resolutions passed by the House of Assembly. Therefore, the House Rules provide that once the motion to concur in the estimates is passed by the House, the Minister of Finance introduces a bill that authorizes the expenditure of public money in accordance with the resolutions. Because the estimates have already been extensively debated and to avoid duplication, the Rules provide that the motions for second and third readings of the bill be voted on that same day without amendment or debate, and that the bill not be referred to any standing committee or to the Committee of the Whole House on Bills. Once this Bill passes and receives Royal Assent, it becomes law under the title *Appropriations Act*,

thus fulfilling the requirement set out in the *Provincial Finance Act* that must be met before the government may spend public money.

The Legislature as Watchdog of Government

Ever since responsible government was established in this province in 1848, government has been accountable to the Legislature. The Legislature, through the House of Assembly, has several tools at its disposal to carry out this function.

Question Period

Question period must take place on Tuesday, Wednesday, and Thursday, immediately after the Daily Routine. During Question Period members are able to rise and ask questions of the Premier about the manner in which the government is conducting the affairs of the province. Members may also question any minister about the manner in which that minister's department is being run and the policies it is pursuing.

Question period lasts for one hour on Tuesdays and Thursdays and for one and one-half hours on Wednesdays which, it will be recalled, are Opposition Days. Theoretically, a member may ask as many questions as he or she wishes. However, in practice, government backbenchers rarely ask questions. Also, because each Opposition party caucus wishes to take maximum advantage of probing any weak spots they think may be in the government, the questions to be asked are carefully planned and choreographed by the caucus. The practice of the House enables a member to ask a question and then two further questions that are subsidiary to the first question. These two subsidiary questions are called "supplementaries." Although a member may not make a speech under the guise of asking a question, this rule is relaxed somewhat to the extent of enabling a member to give a little background to a question, such as the situation that has arisen that led to the question. There are also usages that restrict the type of question that may be asked. For example, a question may not be asked if the answer would involve the giving of a legal opinion. A list of improper questions that the Speaker should rule out of order may be found in *Beauchesne's Parliamentary Rules and Forms (6th Edition)* at pages 124–26.

House Orders

Any member may file a Notice of Motion for a House Order with the clerk. This is a Notice that the member will, on a future day, make a motion requesting the House to order a minister to supply to the member who filed the motion the information, touching the Minister's Department, set out in the notice. Without unanimous consent of the House, a Notice of Motion for a House Order cannot be debated until two days after it is filed. Since it is the opposition who are interested in having the House Orders issued, Notices of Motion for House Orders are called for debate on Opposition Days.

Written Questions

A member may file a written question to a minister with the clerk. If the minister decides to reply to the question, he or she does so by filing the written answer with the clerk.

Public Accounts Committee

The Public Accounts Committee examines the Public Accounts, the Auditor General's Report, and "any other financial matters respecting the public funds of the Province. " This committee is chaired or co-chaired by a member of the official opposition or members of opposition parties.

The Legislature as a Public Forum

Everything that is said and done in the legislature is open to the public. Everything is transcribed in Hansard, which is available in public libraries or through the Internet. Live television coverage is broadcast whenever the House is sitting, and all documents submitted in the Legislature are kept at the Clerk's Office and the Public Archives. Therefore, the Legislature is used to make issues or events public as well as for the running of government. There are several ways in which a matter may be publicized through the use of House of Assembly procedures.

Tabling Petitions

Every document that is tabled in the House becomes a public document. Thus, by tabling a petition in the House a member may place in the public domain any concerns that the member's constituents may have. This may be done under that order of business that must be called every day as part of the Daily Routine entitled "Presenting and Reading Petitions." When this item of business is called any member may rise in his or her place and say that he or she has been asked to table a petition raising a concern that the persons who signed the petition have, such as lack of adequate repair to highways in their district. The member is entitled to describe what the petition is about and state how many people have signed it. In order to be tabled, a petition must be signed by at least three persons and must be endorsed by the member, whether or not the member agrees with the petition. Although no debate on a petition is permitted, and it is simply tabled, the member has, nevertheless, "gone public" on the matter by speaking publicly on it and by making the petition a public document by tabling it. Once the member has presented the petition, the Speaker says: "the petition is tabled."

Notices of Motion

Another way a member may "go public" on a matter is to introduce a notice of motion. This is a notice that a member introduces when the order of business called "Notices of Motion" is called.

This order of business must be called by the Speaker on each sitting day as part of the mandatory Daily Routine.

The notice normally contains a preamble setting out the background and reason for the motion and states that the member will, on a future day, move the resolution set out in the notice. Like a notice of motion for a house order, it cannot be called for debate until two days after it is introduced. A member can introduce up to two notices of motion per day by reading them into the record, but may only introduce additional notices by filing them with the Clerk. Another restriction is that the preamble to a notice of motion may contain no more than two paragraphs, thus preventing a member from making a speech through the back door by inserting a lengthy preamble in a notice of motion.

Since a very large number of notices of motion are introduced, only a small percentage of them are called for debate. Most of the resolutions that are introduced by private members that are called for debate are introduced by opposition members, have strong political overtones, and are called for debate on an opposition day.

However, there are also non-controversial, non-political resolutions that all members and parties can accept. These are very common and are introduced either as Government Notices of Motion or by private members. An example of this type of resolution is a resolution that congratulates a high school basketball team on winning a championship or that pays tribute to someone for distinguished service to the community. When a notice of a motion for such a "motherhood" resolution is introduced, the member introducing it asks for waiver of notice and passage of the resolution without debate. Since the House Rules require two days notice before a resolution can be called for debate and permit resolutions to be debated, unanimous consent of all members present is needed before there is such waiver. Once the waiver is given, then the question is put and carried if a majority vote for it. If this happens, whoever introduced the resolution has secured public recognition of the achievements of the basketball team or the person who has done good work for the community. If waiver is not given, then the resolution is simply tabled and goes on the order paper two days after it is introduced. It is not debated unless it is called for debate by the Government House Leader on a Monday, Tuesday, Thursday, or Friday, or on a Wednesday by the House Leader of the opposition party that is leading the House on that day.

Tabling Government Notices of Motion

Another order of business that must be called every day is an item called "Government Notices of Motion." As its name implies, under this order of business notices of resolutions that are to be sponsored as government measures are introduced by members of the government. An example of a Government Notice of Motion would be a notice of a resolution changing the House Rules.

Also, as has already been pointed out, the government often introduces "motherhood" motions where notice is waived. They are passed immediately without debate.

Debating Bills

The House acts as a public forum when debate takes place on second or third reading of any bill, whether it is introduced as a government measure or by a private member. Indeed, opposition members often introduce public bills that are controversial or have political overtones and are often designed to embarrass the government. Everyone knows that these bills will never be called by the Government House Leader for second reading debate without government support. However, they can be called on an Opposition Day when an opposition party is entitled to call the order of business. Although the House Rules limit the length of the debate to one hour and provide that at the end the debate on a private member's public bill there is no vote, at least the issues raised by the bill get a public airing.

Tabling Reports

A Minister may make a report or other document public by tabling it when the order of business entitled "Tabling Reports, Regulations, and Other Papers" is called daily as part of the Daily Routine.

Debating Motions

A member can also "go public" on a matter by entering into the debate that may take place on the motion for the House to resolve itself into a Committee of the Whole House on Supply *(See page 21).*

Applying for an Emergency Debate

Another way in which a member may use House procedure in order to have a matter publicly debated on the floor of the House is to apply for an emergency debate on the matter. The procedure to be followed and the conditions that must be met before such a debate can be held are clearly set out in Rule 43 of the House Rules.

Proposing an Adjournment Debate

Finally, there is the adjournment debate known as the "late show". The House Rules provide that any member may propose a topic for an adjournment debate. An adjournment debate takes place on Tuesdays, Wednesdays, and Thursdays at six o'clock in the afternoon, which is the time the House would normally adjourn for the day. The House Rules provide that a member of the

opposition may file a proposal for the late show debate on a Tuesday or Thursday, and a non-government member of the majority party on a Wednesday. The debate is limited in length to one half hour, any member may speak in the debate for up to ten minutes, a quorum need not be present, and no vote may be taken at the end of the debate.

If a member wishes to propose a topic for this debate, he or she must file it with the Clerk. If there is no other proposal, the topic is then set down for the "late show." However, if there is more than one proposal filed with the Clerk, then the Clerk conducts a draw one hour before the day's sitting. The winner of the draw is announced by the Speaker early in the day, and the topic submitted by the winner of the draw becomes the subject for that day's "late show" debate.

Making a Minister's Statement

The Premier or a Minister may make a public announcement in the House respecting some government initiative, policy, or other matter of public interest under the item of business called "Statements by Ministers." It will be recalled that this item of business must also be called daily as part of the Daily Routine. One member of each recognized opposition party has the right to comment on a ministerial statement but may speak for no longer than the time it took the Minister to make the statement.